IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WA.No. 1825 of 2007

AGAINST THE JUDGEMENT IN WPC.19272/2007 Dated 03/07/2007

APPELLANTS: PETITIONERS:
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1. COCHIN PORT STAFF ASSOCIATION,
   A REGISTERED TRADE UNION WITH REG. NO.388/81,
   WILLINGTON ISLAND, KOCHI-682 009, REPRESENTED BY
   GENERAL SECRETARY, THOMAS SEBASTIAN.

2. M.J. STELLA,
   RECORD ASSISTANT, GENERAL ADMINISTRATION
   DEPARTMENT, COCHIN PORT TRUST, COCHIN-9.

BY ADV. SRI.S.SREEKUMAR

RESPONDENTS: RESPONDENTS:
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1. THE UNION OF INDIA,
   MINISTRY OF SHIPPING, ROAD TRANSPORT AND HIGHWAYS,
   DEPARTMENT OF SHIPPING TRANSPORT BHAVAN,
   1-PARLIAMENT STREET, NEW DELHI-110 001.

2. THE COCHIN PORT TRUST,
   WILLINGTON ISLAND, COCHIN-682 009, REPRESENTED BY
   ITS SECRETARY.

3. THE ASSISTANT LABOUR COMMISSIONER (C),
   KENDRIYA SHRAMASADAN, KAKKANADU, ERNAKULAM,
   KOCHI-682 030.

BY ADV. SRI.B.S.KRISHNAN(SR.),SC,PORT TRUST
SRI.K.ANAND

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 1825 OF 2007

Dated this the 24th July, 2007

JUDGMENT

H.L.DATTU, C.J.

Exts.P8, P10, P15 and P16 are the orders passed by the respondents in this appeal. Petitioners had called in question the aforesaid orders/intimations by filing the Writ Petition.

2. Ext.P8 order is issued by the Secretary of the Cochin Port Trust to the Working President of the Cochin Port Staff Association. In the said communication it is informed by the Secretary to the President of the Association, that it was agreed between the parties to withdraw the Circular dated 21.4.2003, issued discontinuing the LTC facility through private tourist operators. It is further stated that the proposal made by the Cochin Port Trust to extend the LTC facility through private vehicles has not been agreed upon by the Ministry. There is a further mention in the letter that the Ministry has now issued strict direction to the Cochin Port Trust that LTC facility would not be extended for journeys undertaken by private vehicles and, therefore, the Port Trust will not be in a position to honour the memo of understanding between the Staff Association and the Port Trust.

3. Ext.P10 is the letter of the Deputy Secretary to one of the employees of the Cochin Port Trust. By the said letter, the Deputy Secretary has directed the person concerned to refund the advance

of Rs.5,050/- drawn to make use of the LTC facility with interest as per the Rules immediately.

4. Ext.P15 is the Circular issued by the Secretary dated 2nd June, 2007. By the said Circular it is made known to the Employees' Association that in pursuance to the directions issued by the Ministry, the employees will not be entitled to the LTC facility if they undertook any journeys by private vehicles or private vehicles of Government approved tourist transport operators.

5. Ext.P16 is yet another letter issued by the Deputy Secretary to the second appellant herein directing her to remit the advance amount received by her for the purpose of availing LTC facility with interest at the earliest, failing which, the Port Trust will have no other alternative but to recover the entire advance amount paid to her from the salary bill of the month of June, 2007.

6. The Staff Association and the employee have filed the Writ Petition, inter alia, questioning the aforesaid Circulars and the orders/intimations issued by the Secretary and the Deputy Secretary of the Cochin Port Trust.

7. Learned single Judge has rejected the Writ Petition solely on the ground that the issues raised in the Writ Petition are in the nature of a dispute and the same requires to be resolved by invoking the provisions of the Industrial Disputes Act. Aggrieved by the said

order passed by the learned single Judge, the petitioners are before us in this Writ Appeal.

8. Learned counsel, Sri.S.Sreekumar, appearing for the appellants would submit that the learned single Judge was not justified in directing the appellants/petitioners to resolve the dispute by filing appropriate dispute as provided under the provisions of the Industrial Disputes Act. According to him, the LTC facilities had been extended to all the employees of the Cochin Port Trust in view of the earlier Circular and memo of understanding between the parties of the lis and therefore, the learned single Judge should have entertained the Writ Petition and granted the reliefs sought for in the Writ Petition.

9. After hearing the learned counsel for the appellants and after going through the impugned annexures produced along with the Writ Petition and also the orders passed by the learned single Judge, we are of the opinion that the learned Judge was fully justified in directing the appellants to resolve the grievances in the dispute that is already pending before the authorities.

10. It is an admitted fact that the second appellant is a workman. If for any reason, there is any alteration in the conditions of service of the workman, for resolving the same, an appropriate dispute requires to be filed under the provisions of the Industrial

Disputes Act. This is the basic principle. Keeping this in mind, the learned Judge has rightly rejected the Writ Petition. Therefore, interference of the said order is not called for. The Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

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